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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 JOSE RAMIREZ ET AL.,

No. C 12-04590 CRB

12 Plaintiffs,

**ORDER GRANTING LEAVE TO FILE
SECOND AMENDED COMPLAINT**

13 v.

14 GHILOTTI BROS. INC. ET AL.,

15 Defendants.
16 _____/

17 Plaintiffs have moved under Federal Rule of Civil Procedure 15(a)(2) for leave to file
18 a Second Amended Complaint. Dkt. 18. Defendants argue that the motion should be
19 “denied in part” because many of the amended claims do not “relate back” under Federal
20 Rule of Civil Procedure 15(c), and no private right of action exists to support certain claims.
21 See generally Opp. (dkt. 21). This matter is suitable for disposition without oral argument.
22 See N.D. Cal. Local R. 7-1(b).

23 Under Federal Rule of Civil Procedure 15(a)(2), “[t]he court should freely give leave
24 when justice so requires.” Amendment should be granted when it will not cause the
25 opposing party undue prejudice, is not sought in bad faith, and is not an exercise in futility.
26 DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987).

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1 Defendants' arguments go more to the merits of Plaintiffs' claims (i.e., whether they
2 are time barred and whether they state a claim) than whether leave to amend is appropriate.
3 Accordingly, the Court GRANTS Plaintiffs' motion for leave to amend without prejudice to
4 Defendants' ability to re-raise its arguments in the context of a motion to dismiss.

5 **IT IS SO ORDERED.**

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7 Dated: January 10, 2013

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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE